

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 425 - HB 1379

April 9, 2021

SUMMARY OF ORIGINAL BILL: Extends, from 21 days to 30 days, the time within which a health insurance entity must pay on or notify a provider regarding a claim received by electronic submission.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

CORRECTED SUMMARY OF AMENDMENT (003694): Deletes all language after the enacting clause. Beginning January 1, 2023, requires health carriers to provide coverage for the expenses of the diagnosis of infertility, fertility treatment, and standard fertility preservation services. Requires coverage to include: (1) three completed cycles of intrauterine insemination; (2) fertility treatment necessary to achieve two live births, or a maximum of four completed egg retrievals with unlimited fresh and frozen embryo transfers; (3) diagnosis of infertility; (4) standard fertility preservation services, including the procurement, cryopreservation, and storage of gametes, embryos, or other reproductive tissue, when the enrollee has a diagnosed medical condition, or genetic condition, that may directly or indirectly cause impairment of fertility now or in the future by affecting reproductive organs or processes; and (5) medical and laboratory services that reduce excess embryo creation through egg cryopreservation and thawing in accordance with an individual's religious or ethical beliefs.

Limits coverage for fertility treatment and preservation services to persons who are 44 years of age or less. Prohibits health carriers from limiting benefits based on: (1) co-payments, deductibles, coinsurances, benefit maximums, waiting periods, or other limitations on coverage that are different than maternity benefits provided by the health carrier; (2) exclusions, limitations, or other restrictions on coverage of fertility medications that are different from those imposed on other prescription medications by the health carrier; (3) a requirement that provides different benefits to, or imposes different requirements upon, a class protected under title 4, chapter 21, than that provided to or required of other patients; or (4) a pre-existing condition exclusion, pre-existing condition waiting periods on coverage for required benefits, or prior diagnosis of infertility, fertility treatment, or standard fertility preservation services.

SB 425 – HB 1379 (CORRECTED)

Requires coverage for the diagnosis of infertility, fertility treatment, and standard fertility preservation services in accordance with the standards or guidelines developed by the American Society for Reproductive Medicine, the American College of Obstetricians and Gynecologists, or the American Society of Clinical Oncology, when recommended by a physician as medically necessary. Establishes that making, issuing, circulating, or causing to be made, issued, or circulated, clinical guidelines that are based upon data that are not reasonably current or do not cite with specificity is an unfair and deceptive act and practice under the *Tennessee Consumer Protection Act of 1977* (the Act).

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On March 19, 2021, a fiscal memorandum was issued for this legislation with the following estimated impact:

Increase State Expenditures –

Exceeds \$1,704,400/FY22-23

Exceeds \$3,408,800/FY23-24 and Subsequent Years

Increase Federal Expenditures –

Exceeds \$29,500/FY22-23

Exceeds \$59,000/FY23-24 and Subsequent Years

Increase Local Expenditures –

*Exceeds \$81,800/FY22-23**

*Exceeds \$163,600/FY23-24 and Subsequent Years**

And an estimated impact to commerce as follows:

Increase Business Revenue –

Exceeds \$1,815,700/FY22-23

Exceeds \$3,631,400/FY23-24 and Subsequent Years

Increase Business Expenditures –

Exceeds \$1,815,700/FY22-23

Exceeds \$3,631,400/FY23-24 and Subsequent Years

After further consideration, it was determined the proposed language did not exempt the Division of TennCare. As a result, the fiscal impact for the bill as amended has been corrected as follows:

(CORRECTED)

Increase State Expenditures –

Exceeds \$3,726,900/FY22-23

Exceeds \$7,453,800/FY23-24 and Subsequent Years

Increase Federal Expenditures –

Exceeds \$4,007,600/FY22-23

Exceeds \$8,015,100/FY23-24 and Subsequent Years

Increase Local Expenditures –

Exceeds \$81,800/FY22-23*

Exceeds \$163,600/FY23-24 and Subsequent Years*

Corrected Assumptions for the bill as amended:

Benefits Administration:

- The proposed legislation will apply to the State Group Insurance Plan (SGIP) that takes effect January 1, 2023.
- Based on the National Assisted Reproductive Technology (ART) Surveillance by the Centers for Disease Control and Prevention, the average number of ART procedures per one million women in Tennessee in 2016 and 2017 was 1,357, or 0.14 percent (1,357 / 1,000,000).
- Of those 1,357 ART procedures, 43.8 percent or 594 (1,357 x 43.8%) resulted in pregnancy.
- Of those 594 pregnancies, 82.5 percent or 490 (594 x 82.5%) resulted in a live birth delivery.
- Of those 490 deliveries, 85 percent or 416 (490 x 85.0%) were single live birth deliveries and 15 percent or 74 (490 x 15.0%) were multiple live birth deliveries.
- Applying the same methodology to the number of women between the ages of 21 and 44 that are currently enrolled on the SGIP results as follows:
 - State Plan: 38 (26,893 eligible members x 0.14%);
 - Local Education Plan: 33 (23,310 eligible members x 0.14%); and
 - Local Government Plan: 7 (4,957 members x 0.14%).
- It is reasonably assumed that there will be a 10 percent increase in utilization of services in the first year treatment is covered. Therefore, the members who will receive services is estimated to be:
 - State Plan: 42 members (38 x 1.10);
 - Local Education Plan: 36 members (33 x 1.10); and
 - Local Government Plan: 8 members (7 x 1.10).
- The proposed language requires coverage for three completed cycles intrauterine insemination, fertility treatment and standard preservation to achieve two live births or a maximum of four completed egg retrievals.
- Due to multiple unknown variables, such as the number of egg retrievals or completed cycles on intrauterine insemination a woman might require, the increase in state expenditures is estimated to exceed \$956,000 for the State Plan, and exceed \$292,800 for the Local Education Plan in FY23-24 and subsequent years. For the purposes of brevity, calculations used to derive such estimates are not included in this fiscal note but are available upon request with the Fiscal Review Committee staff.

- Due to the January 1, 2023 effective date, the increase in state expenditures is estimated to exceed \$478,000 ($\$956,000 \times 50.0\%$) for the State Plan and exceed \$146,400 ($\$292,800 \times 50.0\%$) for the Local Education Plan in FY22-23.
- Some state plan member's insurance premiums are funded through federal dollars. The increase in federal expenditures in FY23-24 and subsequent years is estimated to exceed \$59,000. Due to the January 1, 2023 effective date, the increase in federal expenditures is estimated to exceed \$29,500 ($\$59,000 \times 50.0\%$) in FY22-23.
- The state does not contribute to the Local Government Plan; any increase in costs will be entirely absorbed by the participating agencies and their members. It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be \$163,600 in FY23-24 and subsequent years. Due to the January 1, 2023 effective date, the increase in local expenditures is estimated to be \$81,800 ($\$163,600 \times 50.0\%$) in FY22-23.
- The impact on local governments that do not opt into the Local Government Plan is unknown; therefore, the total increase in local expenditures is estimated to exceed \$163,600 in FY23-24 and subsequent years. Due to the January 1, 2023 effective date, the increase in local expenditures is estimated to exceed \$81,800 in FY22-23.

Division of TennCare:

- Applying the same ART methodology to the number of eligible women that are currently enrolled in the TennCare program results in 554 members ($395,927 \text{ eligible members} \times 0.14\%$).
- It is reasonably assumed that there will be a 10 percent increase in utilization of services in the first year treatment is covered. Therefore, the number of members who will receive services is estimated to be 610 (554×1.10).
- The proposed language does not include any parameters or limits to the mandated coverage. It is reasonably assumed coverage will include three completed cycles intrauterine insemination, fertility treatment and standard preservation to achieve two live births or a maximum of four completed egg retrievals.
- Due to multiple unknown variables, such as the number of egg retrievals or completed cycles on intrauterine insemination a woman might require, the increase in state expenditures is estimated to exceed \$12,001,109.
- Medicaid expenditures receive matching funds at a rate of 66.295 percent federal funds to 33.705 percent state funds. Of this amount, \$4,044,974 ($\$12,001,109 \times 33.705\%$) will be in state funds and \$7,956,135 ($\$12,001,109 \times 66.295\%$) will be in federal funds in FY22-23 and subsequent years.
- Due to the January 1, 2023 effective date, the increase in state expenditures is estimated to exceed \$2,022,487 ($\$4,044,974 \times 50.0\%$) and the increase in federal expenditures is estimated to exceed \$3,978,068 ($\$7,956,135 \times 50.0\%$) in FY22-23.

Department of Commerce and Insurance

- The Affordable Care Act requires states to defray the costs of state-mandated benefits in qualified health plans (QHPs) that are in excess of the essential health benefits (EHB).

- The state will be required to defray the cost of benefits required in the proposed legislation because the benefits exceed those provided under Tennessee's EHB benchmark plan.
- Based on information provided by the Department of Commerce and Insurance (DCI), it is estimated there will be a total QHP population of approximately 200,000 for calendar year 2020, consisting of approximately 190,000 individuals covered on the exchange and approximately 10,000 individuals covered off the exchange.
- The state would be responsible for the amount of premium attributed to the new benefit or the insurance carrier's actual costs. The estimate in this note assumes the state will reimburse the health insurance carrier for the amount of premium attributed to the new benefit.
- Based on information provided by carriers who currently offer QHPs in Tennessee, the average per member per month cost is \$0.90, or \$10.80 per year (\$0.90 x 12 months).
- The recurring increase in state expenditures in FY23-24 and subsequent years is estimated to exceed \$2,160,000 (200,000 individuals x \$10.80) due to the increase for which the state would be required to defray the cost. Due to the January 1, 2023 effective date, the increase in state expenditures in FY22-23 is estimated to exceed \$1,080,000 (\$2,160,000 x 50.0%).

Total State Impact

- The total increase in state expenditures is estimated to exceed \$3,726,887 (\$478,000 + \$146,400 + \$2,022,487 + \$1,080,000) in FY22-23 and exceed \$7,453,774 (\$956,000 + \$292,800 + \$4,044,974 + \$2,160,000) in FY23-24 and subsequent years.
- The total increase in federal expenditures is estimated to exceed \$4,007,568 (\$29,500 + \$3,978,068) in FY22-23 and exceed \$8,015,135 (\$59,000 + \$7,956,135 in FY23-24 and subsequent years.
- The total increase in local expenditures is estimated to exceed \$81,800 in FY22-23 and exceed \$163,600 in FY23-24 and subsequent years.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

(CORRECTED)

Increase Business Revenue –

Exceeds \$7,815,500/FY22-23

Exceeds \$15,632,500/FY23-24 and Subsequent Years

Increase Business Expenditures –

Exceeds \$7,815,500/FY22-23

Exceeds \$15,632,500/FY23-24 and Subsequent Years

Corrected Assumptions for the bill as amended:

- Healthcare providers will experience an increase in business revenue for providing services.
- The increase in business revenue is estimated to exceed \$7,815,455 (\$3,726,887 + \$4,007,568 + \$81,000) in FY22-23 and exceed \$15,632,509 (\$7,453,774 + \$8,015,135 + \$163,600) in FY23-24 and subsequent years.
- For companies to retain solvency, any increased expenditures will be less than the amount of increased revenues collected. Therefore, the increase in business expenditures is estimated to be less than \$7,815,455 in FY22-23 and less than \$15,632,509 in FY23-24 and subsequent years.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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